

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ANTHONY LATINO, a seaman,

Plaintiff,

v.

B&P FISHING, INC.,

Defendant.

Case No.:

**SEAMAN’S COMPLAINT FOR
DAMAGES FOR PERSONAL
INJURIES, AND MAINTENANCE
AND CURE AND WAGES**

JURY DEMAND

Plaintiff Anthony Latino, by and through the undersigned counsel, alleges as follows:

GENERAL ALLEGATIONS

1. Plaintiff Anthony Latino (“Plaintiff”) has at all material times been a citizen of the United States and a seaman, and elects to bring this action pursuant to the provisions of 28 U.S.C. §1916 without prepayment of fees and costs and without deposit

SEAMAN’S COMPLAINT AND DEMAND
FOR JURY TRIAL
CASE NO:
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1 of security therefor.

2 2. This action is brought under the admiralty and maritime law as modified by
3 the Jones Act, 46 U.S.C. §30104, *et seq.*, the General Maritime Law, and all other
4 applicable statutes and laws. This Court has jurisdiction pursuant to 46 U.S.C. §30104,
5 28 U.S.C. §1333, and 28 U.S.C. §1367. Pursuant to 28 U.S.C. § 1332, there is also
6 complete diversity between the parties and the amount in controversy exceeds the
7 jurisdictional limit of \$75,000.
8

9
10 3. This action is not subject to rule 9(h) of the Federal Rules of Civil
11 Procedure.
12

13 4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1).

14 5. Plaintiff Tony Latino is an individual residing in Otis, Lincoln County,
15 Oregon.
16

17 6. At all material times, defendant B.P. Fishing, Inc. is a corporation with its
18 principal place of business in Long Beach, Pacific County, Washington.

19 7. At all material times, the F/V MELVILLE, No. OR495AAX (hereafter the
20 “Vessel”), was an American flag fishing vessel operating upon the navigable waters of
21 the United States and the high seas.
22

23 8. At all material times, defendant B.P. Fishing, Inc. (“Defendant”) owned,
24 operated, maintained, manned, and/or controlled the Vessel.
25

26 9. At all material times, Defendant employed Plaintiff as a Jones Act seaman
27

1 in the service of the Vessel.

2 10. On or around August 31, 2021, the Vessel began taking water and
3 thereafter sank off the coast of Vancouver Island.
4

5 11. Plaintiff awoke to water and debris in his bunk room, and after struggling to
6 escape, Plaintiff managed to disembark the Vessel.
7

8 12. After disembarking the Vessel and remaining in water, Plaintiff thereafter
9 managed to board another vessel in the area.

10 13. Due to the above-described incident, Plaintiff suffered severe injuries to his
11 body and mind, including bilateral ear injuries and post-traumatic stress disorder
12 (“PTSD”).
13

14 **FIRST CLAIM**

15 **(Claim for Jones Act Negligence against defendant B.P. Fishing, Co.)**
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17 14. Plaintiff realleges and incorporates herein by reference paragraphs 1
18 through 13 set forth above.

19 15. Plaintiff alleges upon information and belief, that on and around August 31,
20 2021, while Plaintiff was engaged in the course of his duties in the service of the Vessel,
21 Defendant was negligent in, among other things:
22

- 23 a. Causing, allowing, and permitting the Vessel and her appurtenances
24 to be operated in such a manner as to unreasonably endanger
25 Plaintiff’s safety;
- 26 b. Causing, allowing, and permitting the Vessel and her appurtenances
27 to be in a dangerous, defective and hazardous condition;

- c. Failing to warn Plaintiff of the dangerous, defective, and hazardous conditions, and the dangers resulting therefrom;
- d. Failing to provide a seaworthy vessel and a safe method of operation;
- e. Failing to provide Plaintiff with a safe place in which to work;
- f. Failing to promulgate and enforce proper and safe rules of seamanship in the supervision and conduct of the work;
- g. Failing to provide sufficient and competent officers and co-employees;
- h. Failing to supply proper gear and equipment, and to maintain the same in proper order;
- i. Failing to follow safety precautions and other proper protocols before and after the Vessel began taking on water;
- j. Failing to ensure that the Vessel had working bilge pump(s);
- k. Failing to ensure that the Vessel did not have leaks, including in the Vessel's lazarette;

and otherwise acted so negligently as to cause the Vessel to sink, causing Plaintiff to sustain severe injuries, *inter alia*, to his ears and PTSD.

16. As a result of said conduct, Plaintiff was hurt and injured in his health, strength, and activity, sustaining injury to his body and shock and injury to his nervous system and person, all of which said injuries have caused and continue to cause Plaintiff great mental, physical, and nervous pain and suffering, and Plaintiff alleges upon information and belief that said injuries will result in some permanent disability to

1 Plaintiff, all to his general damage according to proof.

2 17. As a further result of said conduct, Plaintiff was required to and did employ
3 physicians and other health care providers for medical examination, care and treatment of
4 said injuries, and Plaintiff alleges that he will require such services in the future. The
5 cost and reasonable value of the health care services received and to be received by
6 Plaintiff is presently unknown to him, and Plaintiff prays leave to insert the elements of
7 damages in this respect when the same are finally determined.
8

9 18. As a further result of said conduct, Plaintiff has suffered and will continue
10 in the future to suffer loss of income in a presently unascertained sum, and Plaintiff prays
11 for leave to insert the elements of damage in this respect when the same are finally
12 determined.
13

14 19. As a further result of said conduct, Plaintiff suffered property damage in a
15 presently unascertained sum, and Plaintiff prays leave to insert the elements of damage in
16 this respect when the same are finally determined.
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19 **SECOND CLAIM**

20 **(Claim for Unseaworthiness against defendant B.P. Fishing Co.)**

21 20. Plaintiff realleges and incorporates herein by reference paragraphs 1
22 through 19 set forth above.
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24 21. Plaintiff alleges upon information and belief, that on and around August 31,
25 2021, while Plaintiff was engaged in the course of his duties in the service of the Vessel,
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the Vessel was unseaworthy in that, among other things:

- a. Said Vessel and her appurtenances were being operated in such a manner as to unreasonably endanger Plaintiff's safety;
- b. Said Vessel and her appurtenances were in a dangerous, defective, and hazardous condition;
- c. The place where Plaintiff was required to work was unsafe;
- d. Sufficient and competent officers and co-employees were lacking;
- e. Sufficient and safe gear and equipment in proper working order were lacking;
- f. Work in progress was being conducted by unsafe methods without sufficient and properly trained personnel and without adequate supervision;
- g. The bilge pump(s) aboard the Vessel were not in proper working order and became disabled;
- h. Leak(s) were present in the Vessel, including in the lazarette;

and the Vessel was otherwise so unseaworthy as to cause the Vessel to sink, causing Plaintiff to sustain severe injuries, *inter alia*, to his ears and PTSD.

THIRD CLAIM

(Claim for Maintenance, Cure, and Unearned Wages against defendant B.P. Fishing, Co.)

22. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 21 set forth above.

23. Upon Plaintiff's becoming injured as aforesaid, it became the duty of Defendant to apprise Plaintiff of his right to seamen's benefits, to promptly authorize and

1 pay for cure, to promptly afford and authorize Plaintiff the opportunity to receive cure,
2 and to promptly pay Plaintiff the expenses of his maintenance and cure, as well as his
3 wages to the end of the period of employment for which Plaintiff was engaged, but
4 Defendant callously and unreasonably failed to satisfy these duties, despite knowledge of
5 Plaintiff's continuing disability.
6

7
8 24. Plaintiff is entitled to maintenance and cure on a continuing basis until such
9 time as he reaches maximum medical improvement. Plaintiff's injuries required, and will
10 in the future require, medical care.

11
12 25. By reason of the premises, Plaintiff has been damaged in sums according to
13 proof for past and future maintenance and cure, and for unearned wages, the precise
14 amounts of which are presently unascertained, and Plaintiff prays for leave to insert the
15 elements of damages in this respect when the same are finally determined.
16

17 26. By reason of said wrongful and willful disregard of Plaintiff's right to
18 maintenance and cure, Plaintiff was forced to engage the services of counsel and has
19 incurred and will continue to incur attorneys' fees and expenses for which Plaintiff is
20 entitled to recover.
21

22 WHEREFORE, Plaintiff Anthony Latino prays for judgment against Defendant as
23 follows:
24

25 a. For general damages according to proof;
26
27

- b. For all expenses, past and future, for healthcare providers according to proof;
- c. For all loss of income, past and future, according to proof;
- d. For all property damage according to proof;
- e. For maintenance, cure, and unearned wages according to proof;
- f. For reasonable attorneys' fees and expenses;
- g. For punitive damages according to general maritime law;
- h. For prejudgment interest according to general maritime law;
- i. For Plaintiff's costs of suit incurred herein; and
- j. For such other and further relief as this Court deems just.

DATED this 14th day of September, 2022.

ANDERSON CAREY WILLIAMS & NEIDZWSKI



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JURY DEMAND

Plaintiff demands trial by jury of the above-captioned case.

DATED this 14th day of September, 2022.

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